BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2013120356
v.	ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT
LANCASTER SCHOOL DISTRICT.	

On December 10, 2013, Student filed a due process hearing request[1] (complaint) naming Lancaster School District (District). On December 13, 2013, District timely filed a Notice of Insufficiency (NOI) to the complaint.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.[2] The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of Title 20 United States Code section 1415(b)(7)(A).

A complaint is sufficient if it contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education (FAPE) to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem to the extent known and available to the party at the time.[3] These requirements prevent vague and confusing complaints, and promote fairness by providing the named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.[4]

---

[1] A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

[2] 20 U.S.C. § 1415(b) & (c).

[3] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

[4] See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[5] The pleading requirements should be liberally construed in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings it authorizes.[6] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[7]

DISCUSSION

The complaint alleges that District denied Student a FAPE by failing to assess Student before modifying Student's goals and services, by failing to implement Student's individualized education program (IEP) during the 2012-2013 and 2013-2014 school years, by failing to provide parental input before modifying Student's goals and services, and by impeding parents' meaningful participation in the IEP process. Student alleges that District's denial of meaningful parental participation included District's pre-determination of goals and services at IEP team meetings, failure to include required personnel at the November 18, 2013 IEP meeting, failure to provide parents with prior written notice of modification of Student's services agreed upon at the November 2, 2012 IEP team meeting, failure to adequately describe Student's present levels of performance at the October 31, 2013 IEP team meeting and in IEP documents in the 2012-2013 and 2013-2014 school years, and failure to provide parents with Student's progress reports in the same two school years.

The facts in the complaint are sufficient to put District on notice of the issues stated above, and provided adequate related facts about the problem to permit District to respond to the complaint, participate in a resolution session and mediation. As a remedy, Student wants to be properly assessed in all areas of suspected disability, including District funded independent evaluations, and an IEP team meeting to be convened after assessments have been concluded to determine proper goals and services for Student. Alternatively, Student wants a non-public school placement.

---

[5] Sen. Rep. No. 108-185, *supra*, at p. 34.

[6] *Alexandra R. v. Brookline School Dist*. (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board of Educ. v. Benton* (S.D.Ala. 2005) 406 F. Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Bd.* (M.D. Fla., Oct. 28, 2005, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

[7] Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

District's argument that Student needs to specify a connection between the facts and proposed resolution beyond that which was alleged in the complaint is not a proper basis for the NOI. Student is also not required to allege each issue with the level of specificity demanded by District when Student already satisfied the minimal notice requirements demanded by the IDEA. Student properly alleged his issues and requested specific remedies.

ORDER

1. The complaint is sufficiently pled under section Title 20 United States Code 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).

2. All mediation, prehearing conference and hearing dates in this matter are confirmed.

Dated: December 16, 2013

/s/

SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings